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UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 8:24-cv-01486-JVS-KES

JOHN DOE, d.b.a. "CMDR IMPERIALSALT" & "ZELLZANDER"

DEFENDANTS

SECOND MOTION FOR SANCTIONS

Comes now, pro se Plaintiff David Stebbins, who hereby submits the following Second Motion for Sanctions in the above-styled action.

Facts

1. In his Answer to Complaint, in an attempt to defeat my allegations that he infringed my copyright first by downloading my stream off of YouTube, he alleges that he downloaded it using YouTube's "premium" download feature. His exact words were ...

"Defendant was actively paying YouTube for Premium access which includes downloading videos directly from YouTube to watch later... Video was not illegally downloaded, in fact, YouTube allowed the video to be downloaded as part of the features for YouTube Premium." See Dkt. 51, ¶ 11.

2. This statement is almost certainly a bald-faced lie. In fact, it is literally impossible that the Defendant is telling the truth.

3. First, YouTube Premium does technically allow some videos (but not all; see below for more details) to be downloaded. However, as I mentioned in my Motion for Partial Summary Judgment, they do not allow them to be downloaded in any way that enables the downloading party to repost them to other websites. The downloaded videos are in fact encrypted and can only be viewed from within the YouTube app. See **Exhibit A** for proof. That exhibit also provides a source URL so the Court can see this page with its own two eyes if it so chooses.

4. But even barring that, there is another reason why the Defendant's version of events cannot possibly be true. Remember that the video that he reposted in the instant case was gated behind a \$1 paywall. Even the Defendant admits to this in Dkt. 51, ¶ 10. This is an important

thing to keep in mind, because YouTube does not even allow the premium download option in the first place for paywalled videos!

5. To prove this, See **Exhibit B**, which contains screenshots from the watch pages of five of my most popular non-paywalled videos. Each of these five examples also contains source URLs so the Court can see them with its own two eyes. You can clearly see that there are download buttons for YouTube Premium subscribers to download them.

6. However, contrast that with **Exhibit C**, which provides similar screenshots (complete with source URLs for the Court's convenience) of five of my paywalled videos. You can see that the download option is conspicuously absent from these watch pages.

7. In light of all of this evidence, the preponderance of the evidence is that the Defendant used third party software to illegally download the video, and then *lied* in his Answer by claiming he used YouTube Premium to download it, knowing that to be a lie. He may have had a YouTube Premium subscription (although even that is doubtful, but I can't prove it's a lie at this point in time), but he certainly didn't use it to acquire the copy of my stream which he proceeded to repost to Kiwi Farms. That much is necessarily a lie.

8. To be clear, I am saying that the Defendant knew or should have known that his factual contents were *impossible*. But he still knew that his factual contentions were *untrue*, and that is all that is necessary for a Rule 11 violation.

Legal Arguments

9. When a party files a pleading (such as an Answer), he represents to the Court that “the factual contentions have evidentiary support.” See Fed.R.Civ.P. 11(b)(3). “If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any ... party that violated the rule.” See Fed.R.Civ.P. 11(c)(1). When a violation occurs, “[s]anctions under Rule 11 are mandatory.” See *Golden Eagle Distributing Corp. v. Burroughs Corp.*, 801 F. 2d 1531, 1540 (1986).

10. Here, the Defendant clearly and flagrantly violated Rule 11(b)(3) by giving factual contentions he knew full well to be false. He may not have realized I would so easily be able to prove it, but he still knew his factual contentions were false, and that's all that matters.

11. The odds that he believed in good faith that he was telling the truth are one in a million. In order to have a genuine, good faith belief in the truth of his factual contentions, he would have to have *hallucinated* a false memory where he downloaded a repostable copy of the video using YouTube Premium, an event which never actually happened. Since it is proven beyond any reasonable doubt that it never happened, that's the only way he could possibly have genuinely believed that it happened. However, the odds of that being the case are one in a million.

12. I therefore ask the Court to impose on the Defendant an appropriate sanction to teach him a lesson about telling bald-faced lies to the Court.

So requested on this, the 9th day of July, 2024.

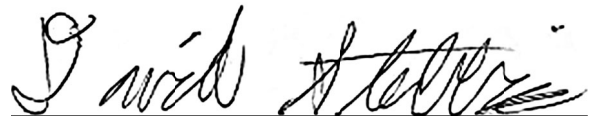

David Stebbins (pro se)

EXHIBIT A

Source URL:

<https://support.google.com/youtube/answer/7381437?hl=en#zippy=%2Cwhy-arent-my-downloaded-youtube-videos-in-my-gallery>

Why aren't my downloaded YouTube videos in my gallery?



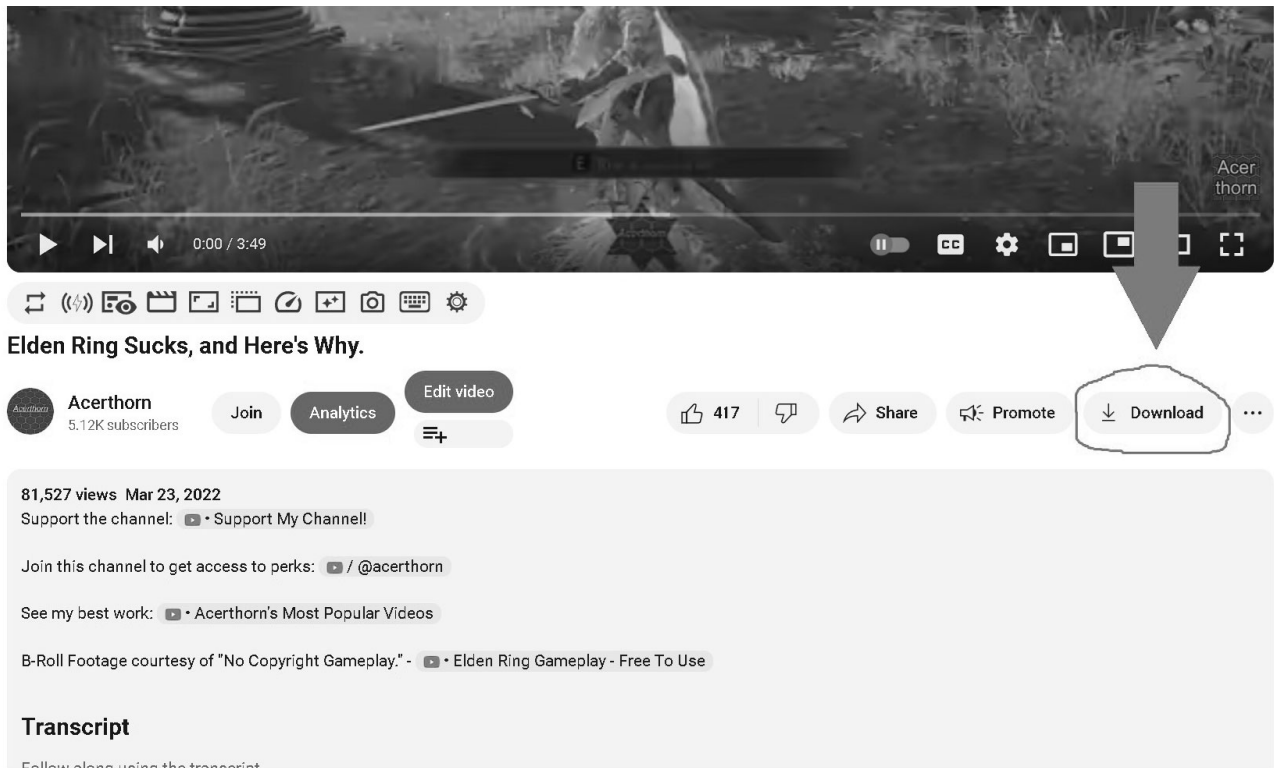
The videos are stored encrypted on the device and can only be watched in the YouTube app.

EXHIBIT B

Part 1:

Source URL:

https://www.youtube.com/watch?v=m0iT_TFcaFE



The screenshot displays a YouTube video player interface. The video title is "Elden Ring Sucks, and Here's Why." by the channel "Acerthorn" (5.12K subscribers). The video has 81,527 views and was posted on Mar 23, 2022. The video player shows a scene from the game Elden Ring. Below the video player, the video title and channel information are displayed. The video has 417 likes and 1 comment. The "Download" button is highlighted with a red circle and a red arrow pointing to it from the video player controls. The video description includes links to support the channel, join the channel for perks, and see the creator's best work. The video is credited to "B-Roll Footage courtesy of 'No Copyright Gameplay.'" and "Elden Ring Gameplay - Free To Use".

Elden Ring Sucks, and Here's Why.

Acerthorn
5.12K subscribers

Join Analytics Edit video

417 1 Share Promote Download ...

81,527 views Mar 23, 2022

Support the channel: [Support My Channel!](#)

Join this channel to get access to perks: [@acerthorn](#)

See my best work: [Acerthorn's Most Popular Videos](#)

B-Roll Footage courtesy of "No Copyright Gameplay." - [Elden Ring Gameplay - Free To Use](#)


Transcript

Follow along using the transcript

Part 2:

Source URL:

<https://www.youtube.com/watch?v=HoTjSldDT3Y>



Endurance 9
Strength 9
Dexterity 15
Resistance 10
Intelligence 12
Faith 11
Humanity 0

Select Item Menu Close Toggle Display Toggle Status

0:00 / 19:44 • Intro >

Like Comment Share Promote Download

Dark Souls Retrospective - Dark Souls Sucks, and Here's Why

Acerthorn
5.12K subscribers

Join Analytics Edit video

77,571 views Jan 14, 2020
Support me on Patreon: / acerthorn

See my best work: • Acerthorn's Most Popular Videos

Chapters

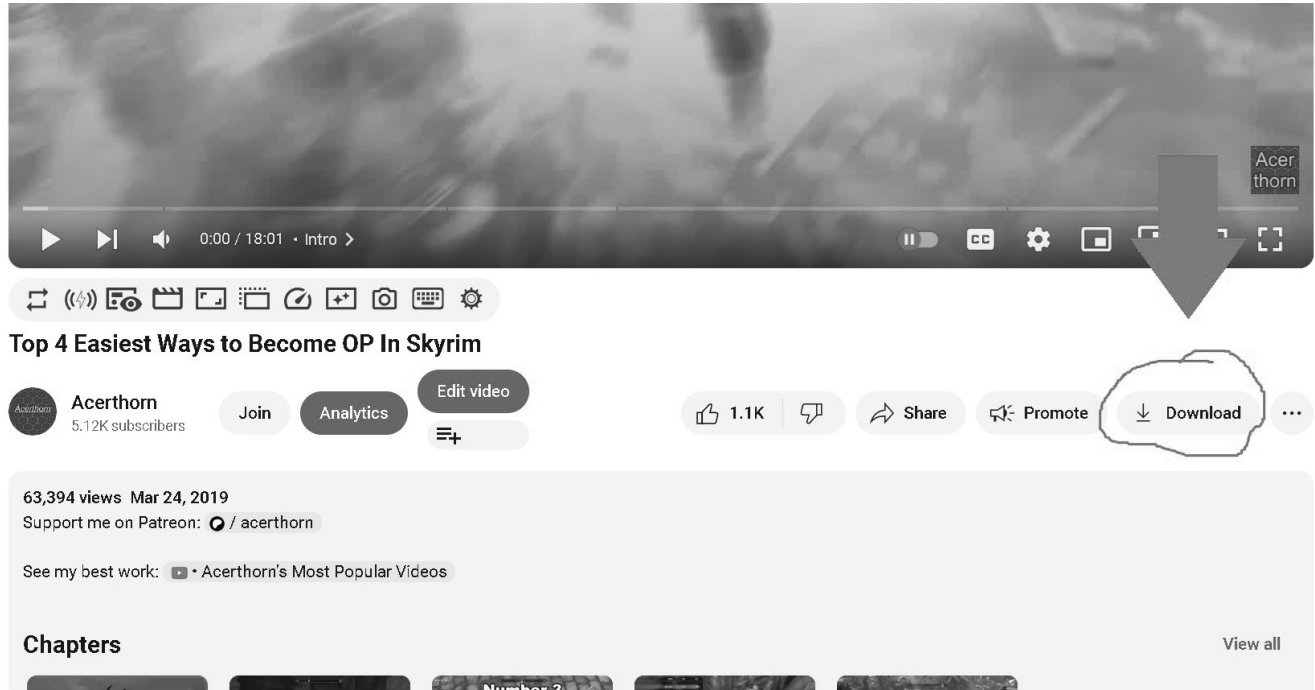
View all

Chapter	Thumbnail	Start Time
Blind #01		0:00
Acerthorn		4:40
Acerthorn		6:32
RETRIEVAL		10:00
		14:34

Part 3:

Source URL:

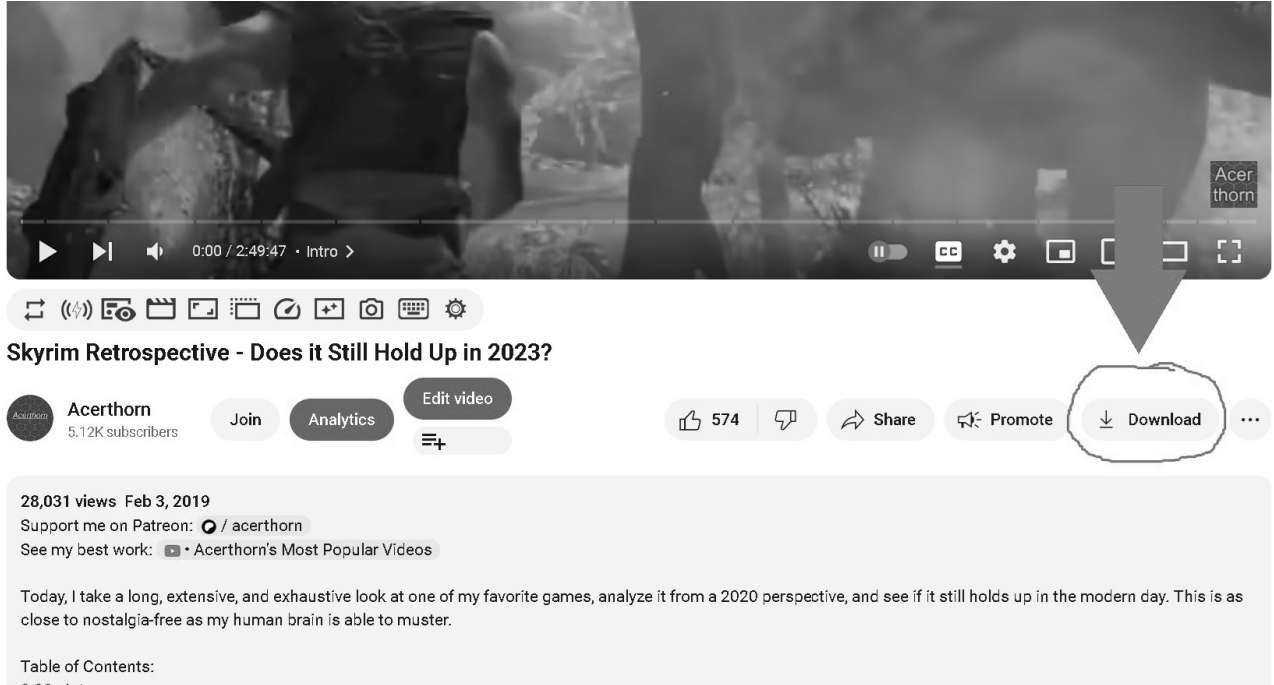
https://www.youtube.com/watch?v=OwmYO_EAyq4



Part 4:

Source URL:

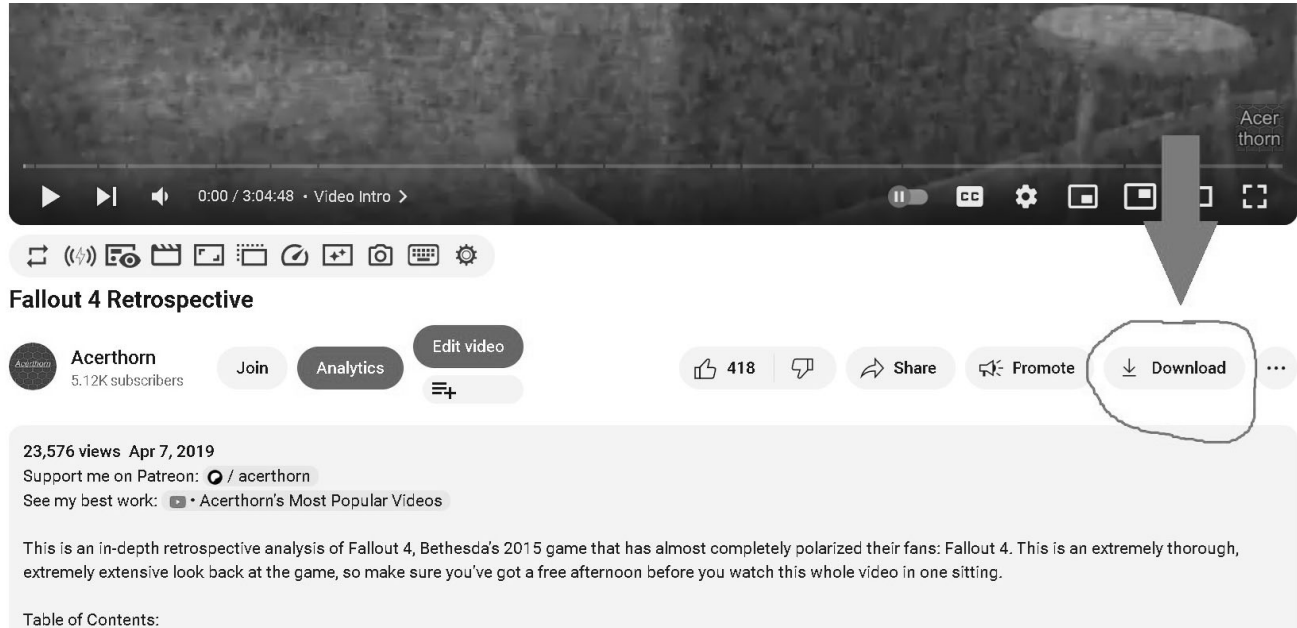
<https://www.youtube.com/watch?v=TO9zimSnPQI>



Part 5:

Source URL:

<https://www.youtube.com/watch?v=4jHf4gKc5so>



The screenshot shows a YouTube video player interface. The video title is "Fallout 4 Retrospective" by the channel "Acerthorn", which has 5.12K subscribers. The video has 23,576 views and was uploaded on April 7, 2019. The description states: "This is an in-depth retrospective analysis of Fallout 4, Bethesda's 2015 game that has almost completely polarized their fans: Fallout 4. This is an extremely thorough, extremely extensive look back at the game, so make sure you've got a free afternoon before you watch this whole video in one sitting." Below the description is a "Table of Contents:" section. In the video player controls, the "Download" button is circled in red, and a large grey arrow points from the video player area down to this button. Other buttons visible include "Join", "Analytics", "Edit video", "Like" (418), "Comment", "Share", "Promote", and a menu icon (three dots).

Fallout 4 Retrospective

Acerthorn
5.12K subscribers

Join Analytics Edit video

418 Like Comment Share Promote Download ...

23,576 views Apr 7, 2019

Support me on Patreon: / acerthorn

See my best work: • Acerthorn's Most Popular Videos

This is an in-depth retrospective analysis of Fallout 4, Bethesda's 2015 game that has almost completely polarized their fans: Fallout 4. This is an extremely thorough, extremely extensive look back at the game, so make sure you've got a free afternoon before you watch this whole video in one sitting.

Table of Contents:

EXHIBIT C

Part 1:

Source URL:

<https://www.youtube.com/watch?v=u4lf3e5zYxs>

The image shows a YouTube video player interface. The video title is "Elden Ring Sucks: The Livestream Debate!" and it is marked as "Members only". The channel is "Acerthorn" with 5.12K subscribers. The video has 1 like and 1 comment. The player shows a progress bar at 0:00 / 1:09:44. The video thumbnail features the word "SOON!" in large, bold, white letters on a dark background with a hexagonal pattern. The channel name "Acerthorn" is visible in the top right corner of the video player. Below the video player, there are buttons for "Join", "Analytics", and "Edit video". There is also a "Support the channel" button with a "Support My Channel!" link. The date "Jun 25, 2022" is displayed. On the right side, there is a sidebar with "TAGS" including "elden ring review", "elden ring impre:", "from software st", "toxic fanbase", "video game disc", "toxicity in video", and "video game cultu". There is also a "BEST PRACTICE" section with checkboxes for "High Res. Thun", "Info Cards Add", and "End Screen Ad". At the bottom right, there is a "SAADIA KEMAT" logo.

Part 2:

Source URL:

<https://www.youtube.com/watch?v=TpjKAUj93aE>

The image shows a YouTube video player interface. The video player is at the top, showing a dark, starry background. Below the player is the video title "Explanations for my 'OMG Who Cares' Series (and my comments thereof)" and the channel name "Acerthorn" with 5.12K subscribers. The video is marked as "Members only". Below the title are buttons for "Join", "Analytics", and "Edit video". To the right of these buttons are buttons for "Like" (0), "Comment", "Share", "Promote", "Save", and a menu icon. Below the buttons is a date "Apr 1, 2024" and a link to "Support the channel: Support My Channel!". On the right side of the interface, there are sections for "BEST PRACTICES" (High Resolution, Info Cards, End Screens), "TAGS" (acerthorn), and a "Report" button.

0:00 / 26:46 • Intro >

Explanations for my "OMG Who Cares" Series (and my comments thereof)

Members only

Acerthorn 5.12K subscribers

Join Analytics Edit video

0 Comment Share Promote Save

Apr 1, 2024

Support the channel: Support My Channel!

Report

Part 3:

Source URL:

https://www.youtube.com/watch?v=_YWDDx40rNE

The image shows a YouTube video player interface. The video player is at the top, showing a dark, abstract background with white, glowing, circular particles. The video title is "FULL VIDEO - I'm friendless by choice and family-less by choice, and here's why." and the channel name is "Acerthorn". The video has 2.60 million views. The player controls show the video is at 0:00 / 1:46:24. Below the player, there are buttons for "Join", "Analytics", "Edit video", "Like" (0), "Share", "Promote", and "Thanks". The video is marked as "Members only". The upload date is "Aug 2, 2023". The channel has 5.12K subscribers. The video description includes "Support the channel: [YouTube icon] • Support My Channel!".

2.60
Views

BEST PRACTI

✓ High Res. Th
✓ Info Cards A
✓ End Screen

TAGS

acerthorn
acerthorn aut
family is not s
blood is thick

0:00 / 1:46:24 • Intro >

Full screen, Volume, Subtitles, Settings, Playlist, Watch later, Share, Embed, Download

FULL VIDEO - I'm friendless by choice and family-less by choice, and here's why.

Members only

Acerthorn
5.12K subscribers

Join Analytics Edit video

0 Likes

Share Promote Thanks

Aug 2, 2023

Support the channel: [YouTube icon] • Support My Channel!

Save Report

Part 4:

Source URL:

<https://www.youtube.com/watch?v=p831Qy36rMk>

The image shows a YouTube video player interface. The video title is "Why my Apartment is so Messy (the real one)" by the channel "Acerthorn", which has 5.12K subscribers. The video is marked as "Members only". The player shows a progress bar at 0:00 / 8:35. Below the video, there are buttons for "Join", "Analytics", and "Edit video". To the right of these buttons are icons for liking (1 like), commenting, sharing, promoting, and thanking. A dropdown menu is open on the right side, showing options for "Save" and "Report". The channel name "Acerthorn" is visible in the top right corner of the video player. The video player controls include play, pause, volume, and a progress bar. The video player also has a "Members only" badge. The video player has a "Join" button, an "Analytics" button, and an "Edit video" button. The video player has a "Like" button (1 like), a "Comment" button, a "Share" button, a "Promote" button, and a "Thanks" button. The video player has a dropdown menu with "Save" and "Report" options. The video player has a "Channel" link in the bottom right corner. The video player has a "High Res" link in the bottom right corner.

Why my Apartment is so Messy (the real one)
* Members only

Acerthorn
5.12K subscribers

Join Analytics Edit video

1 Like Comment Share Promote Thanks

Save Report

Channel

High Res

Part 5:

Source URL:

https://www.youtube.com/watch?v=Q7Ych0_LNjA

The screenshot displays a YouTube video player interface. At the top, a video player shows a progress bar at 0:00 / 34:20 with a play button and volume controls. Below the player, the video title is "You Can't Admit When You're Wrong" Debunked (the real one)", marked as "Members only". The channel name "Acerthorn" is shown with 5.12K subscribers. Navigation buttons include "Join", "Analytics", and "Edit video". Interaction buttons for "Like" (1), "Comment", "Share", "Promote", and "Thanks" are visible. A dropdown menu is open, showing "Save" and "Report" options. The video description includes the date "Jan 26, 2023", a support link "Support the channel: Support My Channel!", and a link to "Acerthorn's Most Popular Videos". On the right, a sidebar shows "BEST FRAG" with a list of video quality options (High Res. 1080p, Info Cards, End Screen) and a "TAGS" section with the tag "admit youre".